

REMARKS

The Office Action mailed September 4, 2009, has been carefully considered together with each of the references cited therein. The remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Claim Rejection Under 35 USC § 102/103

Claims 1, 6, 8-10 and 19 stand rejected as anticipated under 35 USC § 102(b) and as an alternative obvious under 35 USC § 103(a) by Chatterjee (WO 00/68329). Claims 3-5, 12, 13 and 18 stand rejected under 35 USC § 103(a) as being unpatentable over Chatterjee in view of Olivier (FR 2765229). These rejections are respectfully traversed.

It is respectfully contended that the Office has not made a *prima facie* case of obviousness over the instant claims in view of Chatterjee alone or in combination with Olivier.

The following patentably significant differences with respect to the instantly claimed invention over the prior art are apparent:

- I. Both References do not describe nor suggest the influence of the additives on the low temperature flexibility of the bitumen comprising these additives.
- II. Chatterjee describes fatty acids and polyamine components, wherein the ethylenediamine employed by the instant invention is not a polyamine.
- III. Olivier describes diamine wax, whereas the instant invention describes the chemical reaction of ethylenediamine with fatty acids to result in a wax (diamine wax).

- IV. Both prior art references are completely silent about the alkali number and the acid number in the reaction product. The high sensitivity of this feature is demonstrated by the specification and working example 6 (table 3, page 7), wherein the molar ratio of fatty acid to ethylenediamine is only 1:1 and therewith, outside of the claimed invention and wherein the alkali number increases up to 105 (outside claimed invention).

For at least these reasons it is respectfully contended the 35 USC § 102 and 103 rejections of the instant claims over Chatterjee alone or in combination with Olivier have been traversed. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,



Anthony A. Bisulca
Attorney for Applicant
Registration No. 40,913

(CUSTOMER NUMBER 25,255)

Clariant Corporation
Industrial Property Department
4000 Monroe Road
Charlotte, North Carolina 28205
Phone: (704) 331-7151
Fax: (704) 331-7707